

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 05, 2024

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NICOLE K. DRUMHILLER,

Plaintiff,

vs.

AMERICAN PUBLIC UNIVERSITY

SYSTEM, INC.,

Defendant.

No. 2:23-CV-00281-SAB

**JURY TRIAL
SCHEDULING ORDER**

**JURY TRIAL SCHEDULED
JANUARY 13, 2025**

Before the Court is the parties' Joint Status Report, ECF No. 21. Plaintiff is represented by Jacob Downs and Joseph Corr. Defendant is represented by Larry Rector and Michael Porter. After review of the parties' Joint Status Report, the Court orders the following schedule for jury trial and strikes the scheduling conference set on February 16, 2024.

Accordingly, **IT IS ORDERED:**

PROFESSIONALISM AND COURT-ASSISTED MEDIATION

1. Civility and Professional Conduct. Counsel should review and employ Local Rule 83.1 (Civility) and Washington Rule of Professional Conduct 3.4 (Fairness to Opposing Party and Counsel).

2. Scheduling Order is Binding. Rule 16(f) of the Federal Rules of

Civil Procedure provides for sanctions for failure to obey the Scheduling Order. The Court will usually accept stipulations to modify the dates specified in this Order, but modifications of pretrial deadlines may also result in a modification of the trial date.

3. Settlement Conference/Mediation. The parties are encouraged to engage in settlement negotiations as early as possible and should contact the Court if they believe a settlement conference would be helpful. The Court will require parties to engage in mediation prior to trial, unless good cause is shown that mediation is not possible or will be unproductive. The parties shall file written verification of compliance with this pre-trial mediation requirement at least 45 days prior to the trial date.

TRIAL DATES

4. Jury Trial. The jury trial shall commence on **January 13, 2025**, at **9:00 a.m.** in **Spokane**, Washington. Counsel estimates a trial length of three to four days.

5. Pretrial Conference. An in-person pretrial conference will be held on **December 19, 2025**, at **1:30 p.m.** in **Spokane**, Washington.

DISCOVERY DEADLINES

6. Initial Disclosures. The parties shall disclose their Fed. R. Civ. P. 26(a)(1) material no later than **February 16, 2024**. These initial disclosures shall not be filed with the Court.

7. Expert Disclosures.

A. Initial Expert Disclosures. Each Party shall identify its experts and serve written reports as required by Rule 26(a)(2) on all other parties no later than **May 28, 2024**. Each Party shall also provide dates for which those experts can be available for deposition.

B. Rebuttal Expert Disclosures. Each Party shall identify its rebuttal experts and serve written reports as required by Rule 26(a)(2) on all other parties no later

1 than **June 27, 2024**. Each Party shall also provide dates for which those experts
2 can be available for deposition.

3 *C. Modifications.* The parties may modify the deadline for exchange of
4 expert disclosures by joint stipulation filed with the court; a motion is not
5 required.

6 **8. Discovery.**

7 *A. Discovery Limitations.*

8 *i. Depositions.* No more than ten depositions, each limited to seven
9 hours in one day, may be taken by the plaintiffs, defendants, or third-party
10 defendants without leave of the Court. Fed. R. Civ. P. 30(a)(2), (d)(1).

11 *ii. Interrogatories.* No party may serve more than twenty-five
12 interrogatories, including discrete subparts, on any other party, without leave of
13 the Court. Fed. R. Civ. P. 33(a)(1).

14 *iii. Requests for Production.* No party may serve more than thirty
15 requests on any other party without leave of the Court.

16 *B. Discovery Deadline.* All discovery shall be completed on or before
17 **August 26, 2024**.

18 *C. Responses.* To be timely, discovery requests must be served sufficiently
19 in advance of the deadline to allow for timely response by the cutoff date.

20 *D. Necessity.* The parties shall file no discovery except as necessary to
21 support motions or objections.

22 *E. Discovery Conferences.* To avoid wasted time and expense, Counsel may
23 contact chambers to schedule a telephonic conference to obtain an expedited
24 ruling on discovery disputes. Prior to the conference, each party may submit to the
25 Court a one-page summary explaining the discovery dispute.

26 **MOTION DEADLINES**

27 **9. Motions to Amend Pleadings or Add Parties.** Any motion to
28 amend pleadings or add named parties shall be filed and served by **June 17, 2024**.

1 **10. Daubert Motion Deadline.** Challenges to the admissibility of expert
2 opinion testimony shall be made by written motion and filed by **July 5, 2024**. If
3 the party challenging expert testimony anticipates that an evidentiary hearing shall
4 be required, the party shall so advise the Court and opposing counsel in
5 conjunction with the filing of its motions.

6 **11. Dispositive Motions.** All dispositive motions shall be filed and
7 served on or before **September 3, 2024**.

8 **12. Motions *in Limine*.**

9 A. *Motions in Limine*: shall be filed and served on or before **December 2,**
10 **2024**.

11 B. *Responses*: shall be filed and served on or before **December 9, 2024**.

12 C. *Replies*: shall be filed and served on or before **December 16, 2024**.

13 D. *Notation*: *Motions in limine* shall be noted for hearing at the pretrial
14 conference.

15 **TRIAL PREPARATION DEADLINES**

16 **13. Exhibit and Witness Lists.**

17 A. *Exhibit Lists and Witness Lists*: shall be filed and served and exhibits
18 made available for inspection (or copies provided), on or before **December 9,**
19 **2024**.

20 B. *Identification*: The witness list shall include identification of each
21 witness's testimony.

22 C. *Notation of Exhibits*: Where feasible, all exhibits identified in
23 depositions shall be pre-marked with the exhibit numbers that will be used at trial.
24 Plaintiff's trial exhibits are to be numbered 1 through 199; Defendant's exhibits
25 are to be numbered 200 and following.

26 D. *Objections*: Objections to the opposing party's witness list or exhibit list
27 and any accompanying briefs shall be filed and served on or before **December 16,**
28 **2024**.

1 E. *Responses*: Responses, if any, to objections shall be filed and served on
2 or before **December 23, 2024**.

3 **14. Pretrial Exhibit Stipulation.**

4 A. *Stipulation*: The parties shall prepare a pretrial exhibit stipulation that
5 shall contain each party's numbered list of all trial exhibits with the opposing
6 party's objections to each exhibit, including the basis of the objection and the
7 offering party's brief response. All exhibits to which there is no objection shall be
8 deemed admitted, subject to any objections at trial that could not be raised in
9 advance.

10 B. *Deadline*: The pretrial exhibit stipulation shall be filed on **December 23,**
11 **2024**.

12 C. Objections to witness and exhibits shall be heard at the pretrial
13 conference.

14 **15. Designation of Testimony.**

15 The parties shall notify the Court on or before **December 2, 2024** whether
16 deposition testimony will be used at trial. The Court will then schedule a hearing
17 to review all designated testimony and objections so that a final edited version of
18 the deposition testimony can be prepared for trial.

19 **16. Pretrial Order.**

20 A. *Deadline*: A joint Pretrial Order, prepared in accordance with the format
21 provided in Local Rule 16.1(e), shall be filed on or before **December 23, 2024**
22 and a copy e-mailed in Word format to the Court:
23 BastianOrders@waed.uscourts.gov

24 B. *Consistency*: The list of exhibits contained in the joint Pretrial Order
25 shall reflect the exhibit marking scheme described above in paragraph 13(C).

26 C. *Duplicative Exhibits*: In preparing the joint Pretrial Order, the parties
27 shall confer regarding duplicate exhibits and determine which party will submit
28 such exhibits for trial.

17. Trial Briefs and Proposed Voir Dire. Trial briefs and voir dire shall be filed by **December 19, 2024**.

18. Jury Instructions. No later than **December 19, 2024**, the parties shall file jointly proposed jury instructions.

A. *Confer*. The parties shall confer regarding jury instructions and file jointly proposed jury instructions and a table of proposed Jury Instructions. The jointly proposed Jury Instructions should address only issues that are unique to this case and shall include instructions regarding the elements of each claim, any necessary definitions, and a proposed verdict form.

B. *Modifications*. If any proposed instruction is a modified version of model instructions or deviate from model instructions, the parties shall identify the modification and cite legal authority for the modification.

19. Submissions on the First Day of Trial. The Court requires that the following be submitted to the courtroom deputy clerk on the first day of trial:

A. Exhibits. Exhibits for presentation at the trial in tabbed binders indexed by exhibit number with exhibit tags placed consistently on the bottom right corner of each exhibit. Counsel shall submit to the Court an original binder and two copied binders of their exhibits together with three discs or flash drives containing the same.

B. *Exhibit List.* One copy of a final joint exhibit list.

C. *Witness List*. One copy of witness lists in the order in which the witnesses are expected to be called to testify.

MODIFICATIONS

20. Good Cause. Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this schedule shall not be modified unless the Court finds good cause to grant leave for modifications.

21. Motions to Continue Trial. The trial date set forth in this Order is firm, and all parties and their counsel must regard the date set for trial as certain.

1 The Court may grant a continuance only on a showing of good cause requiring the
2 continuance, and the Court does not guarantee its availability on any new date
3 requested by counsel.

4 **22. Length of Memoranda.** The parties shall follow the page limit
5 requirements of Local Rule 7(f) for all motions and pleadings. Motions for leave
6 to exceed page limits are strongly disfavored and will be granted only in
7 extraordinary circumstances.

8 **23.** The Scheduling Conference set for **February 16, 2024** is
9 **STRICKEN.**

10 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
11 this Order and to provide copies to counsel.

12 **DATED** this 5th day of February 2024.



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19 Stanley A. Bastian
20 Chief United States District Judge
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